

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

ANGELO QUINTIN DOWNEY,

No. CIV S-04-1725-GEB-CMK

Plaintiff,

vs.

ORDER

K. PROSPER,

Defendant.

_____/

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, brings this civil rights action pursuant to 42 U.S.C. § 1983. On March 2, 2005, the court served orders on plaintiff at the California Correctional Center in Susanville, California. The Court's records indicates that these orders were returned as undeliverable because they were refused by plaintiff. On March 22, 2005, the court issued findings and recommendations that this action be dismissed pursuant to Eastern District of California Local Rule 11-110 and 83-182(f) for lack of prosecution. On March 24, 2005, plaintiff filed a document indicating that he had been transferred to a different housing area within the California Correctional Center. On April 14, 2005, plaintiff filed objections to the court's March 22, 2005, findings and recommendations stating that he had not refused any legal mail but that prison officials were not delivering his mail to his new location. The court notes

1 that the address provided by plaintiff on both his recent filings matches the address of record
2 reflected on the court's docket.

3 Given that plaintiff filed objections to the court's March 22, 2005, findings and
4 recommendations, it appears that plaintiff is now receiving his legal mail. In the interest of
5 justice, the court will provide plaintiff an additional opportunity to prosecute this action.

6 Accordingly, IT IS HEREBY ORDERED that:

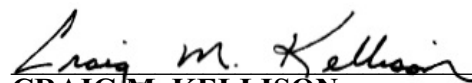
7 1. The court's March 22, 2005, findings and recommendations are vacated;
8 2. Service of plaintiff's complaint is appropriate for defendant K. Prosper;
9 3. The Clerk of the Court is directed to send plaintiff one USM-285 form, one
10 summons, an instruction sheet, and a copy of the complaint filed July 28, 2004;

11 4. Within 30 days of the date of service of this order, plaintiff shall complete
12 the attached Notice of Submission of Documents and submit the following documents to the
13 court:

14 a. The completed Notice of Submission of Documents;
15 b. One completed summons;
16 c. One completed USM-285 form; and
17 d. Two copies of the endorsed complaint filed July 28, 2004;

18 5. Upon receipt of the above-described documents, the court will direct the
19 United States Marshal to serve the defendant pursuant to Federal Rule of Civil Procedure 4
20 without payment of costs.

21
22 DATED: September 26, 2005.

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24 
25 **CRAIG M. KELLISON**
26 UNITED STATES MAGISTRATE JUDGE